

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF COLLEGE STATION AND
COLLEGE STATION INDEPENDENT SCHOOL DISTRICT
FOR THE INSTALLATION OF LIGHT FIXTURES ON TENNIS COURTS ON THE
A&M CONSOLIDATED HIGH SCHOOL CAMPUS**

This Agreement is made and entered into this 16TH day of JANUARY, 2001 by and between the CITY OF COLLEGE STATION, TEXAS (hereinafter referred to as "City"), a Texas Home Rule Municipal Corporation, and COLLEGE STATION INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as "CSISD"), acting through its Board of Trustees.

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested, such as administrative functions, planning, and engineering;

WHEREAS, the CITY OF COLLEGE STATION is a Home Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Agreement pursuant to Article II, Section 5 of its City Charter;

WHEREAS, COLLEGE STATION INDEPENDENT SCHOOL DISTRICT represents that it is independently authorized to perform those functions or services contemplated by this Agreement;

WHEREAS, the City agrees to cooperate with CSISD in the installation of tennis court light fixtures on the A&M Consolidated High School campus for the mutual benefit of both parties;

WHEREAS, CSISD agrees to contract for and manage the installation of light fixtures on the tennis courts;

WHEREAS, CSISD agrees to allow public access to the A&M Consolidated High School tennis courts on the days and during the hours when the courts are not being used for CSISD programs and purposes;

WHEREAS, the City and CSISD agree the City will spend no more than **Eighty-eight Thousand and No/100 Dollars (\$88,000.00)** for the expenses incurred in the design and installation of light fixtures on the tennis courts;

WHEREAS, the City agrees to provide dedicated, metered electrical service for the light fixtures and pay the cost of the electric utilities necessary to provide night access to the tennis courts; and

WHEREAS, the City and CSISD desire to enter into an Interlocal Agreement for the purpose of the City's funding and CSISD's management of the installation of light fixtures on currently unlit tennis courts on the campus of A&M Consolidated High School;

NOW THEREFORE, for and in consideration of the representations and recitations hereinabove and the promises and covenants that follow hereinbelow, the parties enter into the Agreement pursuant to the above-named act to authorize CSISD to contract for this service on behalf of itself and City under the following terms and conditions.

The following establishes the obligations of each party for the tennis court light fixtures to be installed on CSISD property:

1. **Scope of Services**

CSISD will contract with an independent contractor for the installation of light fixtures on *up to* six currently unlit tennis courts (of nine total tennis courts) on the campus of A&M Consolidated High School (hereinafter referred to as the "Project") in accordance with a design approved by the City, the completion of which shall be managed by CSISD. **CSISD may not modify the scope of the Project without the express written authorization of the City.**

2. **Insurance**

CSISD shall require that the Contractor's insurance coverage be primary with respect to CSISD and the City of College Station, its officials, employees, and volunteers and that the City is included as an "Additional Insured" on the policies required in the contract between CSISD and the Contractor. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers shall be considered in excess of the CSISD's and the Contractor's insurance and shall not contribute to it. **All Certificates of Insurance and endorsements shall be furnished to both the City's and CSISD's Representative and approved by the City and CSISD before work commences on the project.**

3. **Project Cost and Payment Provision**

The City's cost for the Project and its design shall not exceed **Eighty-eight Thousand and No/100 Dollars (\$88,000.00)**. CSISD will contribute no funding to this Project, subject to Paragraph 6 (g) hereinbelow. The City shall pay CSISD within ten (10) days of the City's receipt of a detailed, written invoice for the Project from CSISD.

4. **Term of Work**

All work on this Project must be completed by DECEMBER 1, 2001. CSISD shall notify the City, in accordance with Paragraph 10 hereinbelow, in the event that any extensions to the agreed completion date are anticipated.

5. **Time is of the Essence of this Agreement**

CSISD shall be prepared to complete the Project in the most expedient and efficient manner possible in order to complete the work by the date specified hereinabove.

6. **The City and CSISD further agree that:**

- (a) Payments for the Project will be taken from the available resources of the City.
- (b) CSISD shall have the rights and obligations of ownership of the tennis court light fixtures installed pursuant to this Agreement. This includes all maintenance, liability and insurance requirements that CSISD deems necessary. The City shall have no maintenance, liability or insurance obligations with regard to the light fixtures, other than those set out in section (c) below.
- (c) The City shall provide metered electrical service and pay for the electric utilities associated with the light fixtures installed pursuant to this Agreement and necessary to provide night access to the tennis courts.
- (d) The public shall have access to the tennis courts during the days and hours when the courts are not being used for CSISD programs and purposes.
- (e) The light levels of the fixtures installed pursuant to this Agreement will be at the recreational level, in accordance with a design approved by the City.
- (f) The terms and conditions of this Agreement may be modified as provided in Paragraph 10 hereinbelow and upon the mutual consent of both parties. Mutual consent will be demonstrated approval of each governing body of each party hereto.
- (g) If either party terminates this Agreement in accordance with Paragraph 7 hereinbelow after a design has been completed and before CSISD enters into the contract for the Project, the terminating party will pay the cost of the design.

7. **Termination**

Either party may terminate this Agreement at any time before the contract for the Project is entered into by CSISD, by providing thirty (30) days advance notice to the non-canceling party. Notice of termination shall be in writing and provided in accordance with Paragraph 10 hereinbelow.

8. **Indemnity**

To the fullest extent permitted by law, the parties agree to and shall indemnify, hold harmless, and defend the other party, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees for injury to or death of any person, for damage to any property, or for any breach of contract, arising out of or in connection with the work contracted for by the parties under this Agreement, provided and only to the extent that any such claim, loss, damage, cause of action, suit, or liability is caused in whole or in part by an act or omission of the parties, any contractor, subcontractor, or any person or organization directly or indirectly employed by any of them to perform or furnish work under this Agreement. This indemnity shall apply regardless of whether such injuries, death, damages, or breach are caused in part by the negligence or omission of the parties, any other party indemnified hereunder, or a third party. Nothing herein will operate to waive or relinquish any claim arising out of or relating to this Agreement which either the City or CSISD may have against each other.

9. **Invalidity**

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

10. **Written Notice**

Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

College Station Independent School District
1812 Welsh
College Station, Texas 77840
Attn: Mr. David Neal, Deputy Superintendent

City of College Station
Parks and Recreation Department
2613 Texas Avenue South
College Station, Texas 77840
Attn: Steve Beachy, Director

11. **Entire Agreement**

It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the City,

either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

12. **Amendment**

No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

13. **Texas Law**

This Agreement has been made under and shall be governed by the laws of the State of Texas.

14. **Place of Performance**

Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

15. **Authority to Enter Contract**

Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.

16. **Waiver**

Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

17. **Agreement Read**

The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

18. **Assignment**

This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party.

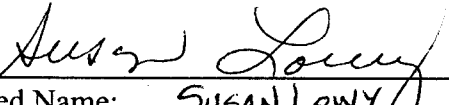
19. **Multiple Originals**

It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

20. **Effective Date**

This Agreement will be effective when signed by the last party whose signing makes the Agreement fully executed.

COLLEGE STATION INDEPENDENT
SCHOOL DISTRICT

By: 
Printed Name: SUSAN LOWY
Title: PRESIDENT, BOARD OF TRUSTEES
Date: 1-16-2001

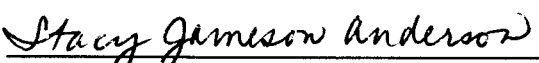
CITY OF COLLEGE STATION

By: _____
Lynn McIlhaney, Mayor
Date: _____

ATTEST:

Connie Hooks, City Secretary
Date: _____

APPROVED:

Thomas E. Brymer, City Manager

City Attorney

Date
1/24/01
Date

Charles Cryan, Director of Fiscal Services

Date